

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD L. MCCOY,
Petitioner,
v.
B.M. TRATE,
Respondent.

Case No. 1:22-cv-00031-HBK (HC)
ORDER DENYING PETITIONER'S
EMERGENCY MOTION TO LIFT STAY
(Doc. No. 42)

Pending before the Court is Petitioner's Emergency Motion to Lift Stay filed October 11, 2022. (Doc. Nos. 42). Petitioner, a federal prisoner who is proceeding *pro se*, has pending a petition for writ of habeas corpus under 28 U.S.C. § 2241. (Doc. No. 1). As more fully set forth below, the Court denies the motion.

On August 9, 2022, the Court granted Respondent's motion to stay this matter pending the decision on Petitioner's § 3582 motion for compassionate release filed in his court of conviction, the Middle District of Florida ("MDFL"), because it raises an identical claim to one of the grounds for relief in the Petition currently pending before this Court. (Doc. No. 36). On October 5, 2022, Petitioner filed a motion to lift the stay, wherein he argued that due to extensive damage in the Middle District of Florida after hurricane Ian, the Court should lift the stay and "assume

jurisdiction over this habeas corpus” in order to “ensure the expedited administration of justice and fairness.” (Doc. No. 39). The Court denied Petitioner’s motion to lift the stay on October 7, 2022. The Court specifically found that

Petitioner fails to submit any evidence that court proceedings in the MDFL will be interrupted for such a lengthy time that a decision on his motion for compassionate release would result in a “fundamental miscarriage of justice.” (*Id.*). Moreover, while the circumstances surrounding a possible delay in the consideration of Petitioner’s motion for compassionate release in the MDFL are unforeseen and tragic, the interests of overall judicial efficiency, preventing conflicting rules on overlapping claims and issues, and ensuring against resulting collateral case confusion, weigh in favor of maintaining the stay of proceedings before this Court pending resolution of Petitioner’s 18 U.S.C. § 3582 motion for compassionate release in his court of conviction.


(Doc. No. 41).

Petitioner’s current motion appears identical to the previously filed motion to lift the stay. (*Compare* Doc. No. 39 with Doc. No. 42). To the extent Petitioner is renewing his previously denied motion to lift the stay, the Court denies the motion for the same reasons outlined *supra*. The Court takes judicial notice that the court in the Middle District of Florida is still operating. Moreover, a review of the docket in Petitioner’s pending case on his motion for compassionate release indicates that previously ordered briefing was timely filed as recently as October 5, 2022. (*See United States v. Williams et. al.*, No. 8:90-cr-00132-CEH-MRM, Doc. No. 1224-225).

Accordingly, it is **ORDERED**:

Petitioner’s renewed, emergency motion to lift stay (Doc. No. 42) is DENIED.

Dated: October 28, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE